

Original Sponsors:
Stevens and Josephson

Offered: 3/9/66
Referred: Commerce

1 IN THE HOUSE

BY THE LABOR AND MANAGEMENT
COMMITTEE

2 CS FOR HOUSE BILL NO. 331

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a Construction Con-
7 tractor's Licensing Board; and providing
8 for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 08 is amended by adding a new chapter to read:

11 CHAPTER 18. CONSTRUCTION CONTRACTORS.

12 ARTICLE 1. CONSTRUCTION CONTRACTOR'S LICENSING BOARD.

13 Sec. 08.18.010. CREATION AND COMPOSITION OF BOARD. (a)

14 There is created within the Department of Labor a Construction
15 Contractor's Licensing Board composed of five members. The
16 governor shall appoint the members of the board. The members
17 shall be confirmed by the legislature.

18 (b) The board shall be composed of

19 (1) one member who is a general building contractor;

20 (2) one member who is a highway and heavy con-
21 struction general contractor;

22 (3) one member who is a plumbing and heating con-
23 tractor;

24 (4) one member who is a residential builder;

25 (5) one member who is an electrical contractor.

26 Sec. 08.18.020. QUALIFICATIONS OF MEMBERS. To be
27 eligible for appointment as a member of the board, a person
28 must

29 (1) be a resident of Alaska,

1 (2) have engaged in the construction contracting
2 business in Alaska for not less than five years immediately
3 preceding his appointment,

4 (3) have a reputation for integrity and responsi-
5 bility in the construction industry;

6 (4) not have been adjudged bankrupt;

7 (5) unless an initial appointee to the board, be
8 licensed under this chapter.

9 Sec. 08.18.030. TERMS OF OFFICE. The term of office
10 of a member of the board is three years, except that initial
11 appointments to the board are as follows: one member for
12 a one-year term; two members for a two-year term; and two
13 members for a three-year term. Except in the case of a vacancy,
14 a person appointed to succeed a member must be engaged in the
15 same type of contracting as the member he replaces.

16 Sec. 08.18.040. OFFICERS OF THE BOARD. The board shall
17 annually elect a chairman and secretary-treasurer from its
18 membership.

19 Sec. 08.18.050. MEETINGS AND QUORUM. (a) The board
20 shall meet to transact business on those dates which it
21 specifies. The board may not meet more than six times during
22 a fiscal year.

23 (b) A majority of the board constitutes a quorum.

24 Sec. 08.18.060. EXECUTIVE DIRECTOR. The commissioner of
25 labor or his designated representative serves as the executive
26 director of the board.

27 Sec. 08.18.070. EXPENSES. Members of the board receive
28 no salary but are entitled to per diem and travel expenses
29 provided by law. The executive director of the board is

1 entitled to per diem and travel expenses provided by law.

2 Sec. 08.18.080. INSPECTION OR INVESTIGATION BY BOARD.

3 The board may make or cause to be made a special investiga-
4 tion or investigation of the work of a licensee if necessary
5 to carry out the purposes of this chapter. The board may
6 issue subpoenas, subpoenas duces tecum, and process compelling
7 the testimony of any person and the production of records,
8 papers and books, for the purpose of investigation or
9 examination. The board may administer oaths when required
10 and may petition a court of this state to enforce subpoenas,
11 subpoenas duces tecum or to compel testimony.

12 Sec. 08.18.090. REGULATIONS OF THE BOARD. (a) The
13 board shall adopt substantive regulations making more specific
14 the experience standards which an applicant must meet to
15 qualify for a license, the reasons for which a license may be
16 suspended or revoked and the classifications of construction
17 contractors. In adopting regulations under this section, the
18 board shall be guided by established practices in the con-
19 struction industry and recognized ethical procedures required
20 for the protection of persons and agencies in the state.

21 (b) The board may adopt procedural regulations neces-
22 sary to administer this chapter.

23 ARTICLE 2. LICENSING.

24 Sec. 08.18.100. LICENSE REQUIRED. A person may not en-
25 gage in business as a construction contractor unless licensed
26 under this chapter.

27 Sec. 08.18.110. CLASSIFICATION OF LICENSES. (a) The
28 board shall issue construction contractor licenses for each
29 of the following classifications:

- 1 (1) general building contractor,
2 (2) highway and heavy construction general con-
3 tractor,
4 (3) plumbing and heating contractor,
5 (4) residential builder,
6 (5) specialty subcontractor,
7 (6) electrical contractor.

8 (b) A person may apply for a construction contractor
9 license for one or more of the classifications listed in (a)
10 of this section. A licensee holding a construction contrac-
11 tor license valid for one classification may apply for a
12 license in any other classification.

13 (c) The board shall require separate application,
14 examination, and qualification for each license classifica-
15 tion.

16 (d) A person who is a licensed general building con-
17 tractor may engage in business as a residential builder
18 without obtaining a residential builder license.

19 Sec. 08.18.130. REQUIREMENT FOR LICENSE. To qualify
20 for a construction contractors license of any classification,
21 a person must

- 22 (1) submit a verified application on the form
23 prescribed by the board;
24 (2) submit, with the application, a bond required
25 by sec. 180 of this chapter;
26 (3) show, to the satisfaction of the board, that he
27 (A) is of good reputation,
28 (B) has not been previously denied a license
29 or had a license revoked,

1 (C) if applying for a license more than one
2 year after the effective date of this chapter, has not
3 been illegally engaged in business as a construction
4 contractor in Alaska for a period of one year before
5 the date of application,

6 (D) if a foreign corporation, has received
7 a certificate of authority from the commissioner of
8 commerce to transact business in the state;

9 (4) pass the written examination given by the
10 board;

11 (5) submit, with the application, the appropriate
12 fee for the license classification applied for.

13 Sec. 08.18.140. PERSONS EXEMPT FROM WRITTEN EXAMINATION.
14 An applicant who actively engaged in business as a construc-
15 tion contractor in Alaska for at least three years before the
16 effective date of this chapter must qualify for a license
17 according to sec. 130 of this chapter, except that he need
18 not take and pass a written examination. To be eligible for
19 a license, an applicant who is not required to take a written
20 examination must show that he satisfactorily complied with all
21 laws relating to workmen's compensation, employment security,
22 social security, business license and income taxes, and com-
23 prehensive liability during that period in which he engaged
24 in business as a construction contractor.

25 Sec. 08.18.150. APPLICATION. The department shall pre-
26 scribe the form of an application for a license. The form
27 shall, in addition to other information considered necessary
28 by the board, require

29 (1) the name and address of the person applying,

1 if the applicant is an individual;

2 (2) the names and addresses of all general and
3 limited partners, if the applicant is a partnership;

4 (3) the names and addresses of the president,
5 vice president, secretary and chief construction managing
6 officer or officers, if the applicant is a corporation or
7 firm;

8 (4) a complete statement of the general nature of
9 the applicant's contracting business;

10 (5) a statement which recites the applicant's
11 experience in the type of contracting which he proposes to
12 engage in if granted a license;

13 (6) if the applicant holds a license valid for
14 another classification, proof that he has satisfactorily
15 complied with all laws relating to workmen's compensation,
16 employment security, social security, business license and
17 income taxes, and comprehensive liability while engaged in
18 business under that license.

19 Sec. 08.18.160. WRITTEN EXAMINATION. An applicant shall
20 be given a written examination within five days of the receipt
21 of his application by the department. The department shall
22 administer a written examination which tests the applicant's
23 knowledge of elementary administrative principles of the con-
24 tracting business, those uniform, state, and local codes, and
25 safety, health, and lien laws, which pertain to the license
26 classification being applied for, and the regulations of the
27 board.

28 Sec. 08.18.170. LICENSING OF APPLICANTS OTHER THAN
29 INDIVIDUALS. Each applicant, other than an individual who

1 is applying in his own name, shall designate a supervisor or
2 member of the corporation, partnership, or firm to take the
3 written examination. The person designated by the applicant
4 to take the examination shall substitute his experience for
5 that of the applicant for the purposes of sec. 150(5) of this
6 chapter. The person designated by the applicant under this
7 section is known as the administrator of the license. A
8 license issued subject to this section is contingent upon the
9 administrator remaining in a responsible supervisory capacity
10 with the licensee for construction contracting performed in
11 Alaska.

12 Sec. 08.18.180. BOND. (a) An applicant shall submit
13 with his application a bond written by an acceptable surety
14 company in the amount of not less than \$1,000 payable to the
15 department. The bond shall guarantee that the applicant, if
16 granted a license, will comply with the provisions of this
17 chapter. The aggregate liability of the surety shall not
18 exceed the amount of the bond. The bond shall be continuous
19 until the license is revoked or otherwise terminated by the
20 board. If the surety desires to cancel the bond, the
21 cancellation is effective 30 days after the surety sends
22 written notice of cancellation to the department and to the
23 licensee by registered mail.

24 (b) Persons injured by a licensee's failure to comply
25 with the provisions of this chapter may commence a right of
26 action against the board, but actions collectively may not
27 exceed the amount of the bond.

28 Sec. 08.18.190. ISSUANCE OF LICENSE. If the board
29 determines that an applicant qualifies for a license, the

1 board shall issue a license for the classification applied
2 for within 30 days after the application is filed.

3 Sec. 08.18.200. EFFECT OF LICENSE. A license issued
4 under this chapter authorizes the licensee to engage only in
5 construction contracting within that classification stated on
6 the license. Nothing in this chapter shall be construed to
7 prohibit a licensee from performing work of an intrinsic or
8 minor nature on a project which he has under contract,
9 although that intrinsic or minor work is not within the
10 licensee's classification, if the work is necessary to the
11 prompt completion of the licensee's contract.

12 Sec. 08.18.210. FORM AND CONDITIONS OF LICENSE. (a) A
13 license issued under this chapter shall be signed by a member
14 of the board or a person designated by the board. A license
15 is not transferable. A licensee, upon demand, must show
16 satisfactory evidence that he possesses a license.

17 (b) A license shall clearly state the contracting clas-
18 sification for which it is valid.

19 (c) The name, license classification and license number
20 of a licensee must be conspicuously placed upon the premises
21 where contracting work is being performed by the licensee.

22 (d) A licensee shall include the license number in all
23 written bids which he submits.

24 Sec. 08.18.220. LICENSE FEES. (a) The fees for
25 licenses issued under this chapter are:

	Original	Annual
	Fee	Renewal
		Fee
26		
27		
28		
29		
Building contractor	\$200	\$100

1	Highway and heavy construction		
2	general contractor	\$200	\$100
3	Residential builder	150	75
4	Plumbing, electrical and heating and		
5	specialty subcontractors	100	50

6 (b) If an application for a license is denied, one-half
7 of the fee accompanying the application is forfeited, and the
8 remainder shall be returned to the applicant.

9 (c) If an applicant, after having been notified to do
10 so, fails to appear for a written examination within six
11 months after the date of filing his application, the fee sub-
12 mitted with his application is forfeited and the application
13 voided.

14 (d) A re-application for a license must be accompanied
15 by the original fee established for the classification applied
16 for.

17 (e) A licensed residential builder, plumbing and heating
18 contractor, or specialty subcontractor who obtains a building
19 contractor or highway and heavy construction general con-
20 tractor license is required to pay an original fee for either
21 of those licenses which equals the difference between the
22 original fee for his current license and \$200.

23 Sec. 08.18.230. LICENSE RENEWAL. (a) Licenses issued
24 under this chapter shall expire June 30 each year. An appli-
25 cation for the renewal of a license which is accompanied by
26 the appropriate renewal fee and received by the board before
27 July 1 authorizes a licensee to engage in business as a con-
28 struction contractor until the license is formally renewed by
29 the board for the next fiscal year.

1 (b) If a licensee fails to file an application to renew
2 a license, or to pay the appropriate renewal fee, before July
3 1, the license shall be suspended and is renewable only upon
4 payment of a fee which equals one and one-half times the
5 amount of the appropriate renewal fee. Unless renewed, a
6 license remains suspended for the remainder of the fiscal year.
7 If a license is suspended for nonpayment of the renewal fee
8 for one year or more, the renewal privilege is not available
9 to the former licensee and he must apply for an original
10 license.

11 Sec. 08.18.240. SUSPENSION AND REVOCATION OF LICENSES.

12 (a) The department shall make every effort to investigate
13 all complaints about licensees which it receives.

14 (b) The board may suspend or revoke a license if it
15 finds that a licensee has

16 (1) abandoned, without good cause, a contract or
17 construction project which has been awarded to him;

18 (2) diverted funds or property received for the
19 execution or completion of a contract and applied or used
20 them for another contract, obligation or purpose in cases
21 where the contractor did not complete the first contract or
22 did not have immediately available other funds or property;

23 (3) fraudulently, deliberately, grossly, or
24 negligently departed from, or disregarded, plans or speci-
25 fications in any material respect without the consent of the
26 owner or his duly authorized representative;

27 (4) been careless or negligent in providing
28 minimum safety measures required by state law, including
29 appliances and equipment, to protect workmen and the public,

1 or failed to observe any applicable ordinances of a political
2 subdivision of this state which prescribe measures for the
3 safety of workmen and the public;

4 (5) failed to make unemployment and social
5 security payments or failed to provide workmen's compensation
6 insurance;

7 (6) failed to comply with all applicable state
8 laws pertaining to the employment of laborers, mechanics,
9 and other employees;

10 (7) failed to pay wages and other benefits, when
11 due, for services rendered by employees;

12 (8) failed to furnish or provide transportation as
13 required by state law;

14 (9) misrepresented any material fact in obtaining
15 a license;

16 (10) committed a wilful or fraudulent act which
17 resulted in another person being substantially injured;

18 (11) failed in any material respect to complete
19 a construction project or operation for the price stated in
20 the contract or in any modification of the contract which
21 was agreed upon;

22 (12) aided or abetted an unlicensed person to
23 evade the provisions of this chapter or knowingly combined
24 or conspired with an unlicensed person or acted as an agent,
25 partner, associate or otherwise of the unlicensed person with
26 the intent to evade the provisions of this chapter;

27 (13) wilfully or deliberately failed to pay money
28 when due for material or services rendered in connection with
29 his operations as a licensee when he had the capacity to pay

1 or when he had received sufficient funds as payment for the
2 particular construction work, project or operation for which
3 the services or materials were rendered or purchased; or

4 (14) failed to comply with the applicable building
5 code requirements of the political subdivision in which con-
6 struction work was performed.

7 Sec. 08.18.250. HEARING. Proceedings to suspend or
8 revoke a license issued under this chapter are governed by
9 the Administrative Procedure Act (AS 44.62).

10 Sec. 08.18.260. RENEWAL OF LICENSE AFTER SUSPENSION OR
11 REVOCATION. (a) If a license is suspended or revoked for
12 any of the reasons listed in sec. 240 of this chapter, the
13 board may, on its own motion, renew a license upon proof that
14 the former licensee has complied with provisions of the
15 decision relating to renewal of a license, or in the absence
16 of a decision or provisions in a decision relating to renewal,
17 may renew a license upon proof that all loss caused by the
18 act or omission for which the license was suspended or re-
19 voked has been fully satisfied.

20 (b) The board may reissue or renew a revoked or sus-
21 pended license subject to such conditions as the board may
22 prescribe which are necessary to prevent a recurrence of those
23 acts or omissions by the licensee which resulted in the sus-
24 pension or revocation of the license.

25 ARTICLE 3. MISCELLANEOUS PROVISIONS.

26 Sec. 08.18.270. PROHIBITED ACTS. (a) It is unlawful
27 for a person to engage in business as a construction con-
28 tractor, or to act or offer to act in that capacity, or to
29 purport to have the capacity to act as a construction con-

1 tractor, unless he has obtained a license under this chapter,
2 unless the person is exempted from the effect of this chapter
3 under sec. 320 of this chapter.

4 (b) Evidence that a person has applied for, or secured,
5 a permit to construct, alter, add to, repair, or do wrecking
6 work from a political subdivision of this state, or that a
7 person has employed another person on a construction project,
8 shall be accepted in a court of this state as prima facie
9 evidence of violation of (a) of this section.

10 Sec. 08.18.280. DISABILITY. No person may commence or
11 maintain an action in a court of this state, for the collection
12 of compensation for the performance of an act for which a
13 license is required by this chapter unless he alleges and
14 proves that he was licensed under this chapter during the
15 performance of that act.

16 Sec. 08.18.290. LIEN LAWS. Nothing in this chapter
17 shall be construed to affect an applicable lien law. A bond
18 submitted to the board under sec. 180 of this chapter is
19 available to satisfy a judgment in a lien foreclosure suit.

20 Sec. 08.18.300. FEDERAL LAW. If a provision of this
21 chapter conflicts with a federal law, or a rule or regulation
22 made under federal law pertaining to federal aid contracts,
23 the provision in conflict with the federal law, rule or
24 regulation shall not apply to federal aid contracts to the
25 extent that the conflict exists, but all provisions of this
26 chapter which do not conflict shall apply to federal aid
27 contracts.

28 Sec. 08.18.310. PENALTY. A person who wilfully violates
29 a provision of this chapter, or who wilfully violates a

1 regulation of the board, is guilty of a misdemeanor.

2 ARTICLE 4. GENERAL PROVISIONS.

3 Sec. 08.18.320. EXCEPTIONS. This chapter does not apply
4 to

5 (1) employees of the federal government, the state,
6 or a political subdivision of the state, if these employees
7 are performing construction work while on the payrolls of
8 these governmental entities, or to construction, alteration,
9 improvement or repair work within the limits and boundaries
10 of a federal site or reservation, if the work is performed by
11 employees of the federal government;

12 (2) a person who performs normal maintenance work
13 which is incidental to the operation of a public utility;

14 (3) a property owner, occupant, or person acting
15 as his own contractor who is building or improving a
16 structure either for personal use or for sale, if no more
17 than two residential units or commercial construction not in
18 excess of \$25,000 in value is performed during a calendar
19 year;

20 (4) work or operation on one undertaking or
21 project by one or more contracts, the work or operation being
22 considered as being of casual, minor or inconsequential
23 nature; provided that this exemption does not apply in a case
24 where the construction is only a part of a larger or major
25 operation, whether undertaken by the same or a different
26 contractor, or in a case in which a division of the operation
27 is made in contracts of amounts less than \$100 for the
28 purpose of evasion of this chapter or otherwise; and this
29 exemption does not apply to anyone who advertises or puts out

1 a sign or card or other device which might indicate to the
2 public that he is a contractor or that he is qualified to
3 engage in the business of contracting;

4 (5) a person performing construction work inci-
5 dental to farming, dairying, agriculture, horticulture, or
6 stock or poultry raising, mining activities, fishing activi-
7 ties; clearing or other work upon the land in rural districts
8 for fire prevention purposes, or access road building, unless
9 the person is a licensee;

10 (6) a licensed architect or a registered civil or
11 professional engineer acting solely in his professional
12 capacity;

13 (7) a person who only furnishes materials or
14 supplies without fabricating them into, or consuming them,
15 in the performance of the work of the contractor;

16 (8) a person who engages in the activities regu-
17 lated under this chapter as an employee with wages being his
18 sole compensation; or

19 (9) persons engaged in performing construction
20 contracting in areas which are not within an organized
21 borough or which do not meet the population, economic, and
22 geographical standards for an organized borough as prescribed
23 in AS 07.

24 Sec. 08.18.330. DEFINITIONS. In this chapter

25 (1) "board" means the Construction Contractor's
26 Licensing Board;

27 (2) "construction contractor" means a person who
28 for a price, fee or percentage or other compensation, under-
29 takes or offers to perform, or claims to have the capacity

1 to undertake or perform, or submits a bid for, or who per-
2 forms for others, a construction project to construct, build,
3 alter, repair, add to, subtract from, improve, move, wreck or
4 demclish any building, highway, road, railroad, or any type
5 of fixed structures including excavation and site development,
6 but does not include either a supplier of materials or
7 services who is not directly involved in the installation of
8 the materials or services on a construction project or an
9 electrical contractor, but does include all other subcon-
10 tractors and specialty contractors;

11 (3) "department" means the Department of Labor;

12 (4) "electrical contractor" or "electrical subcon-
13 tractor" means any person engaged in the business of, or
14 purporting to be engaged in the business of, installing or
15 repairing, or contracting to install or repair, electrical
16 wiring, conduits, devices, fixtures, equipment or other
17 electrical materials for transmitting, using, or consuming
18 electrical energy;

19 (5) "general building contractor" means a con-
20 struction contractor engaged in the construction by contract
21 of all types of building structures, including modification
22 thereof, or additions or repairs thereto, designed and in-
23 tended for commercial, industrial, institutional, private or
24 residential use for shelter, protection, comfort or con-
25 venience of persons, animals, merchandise, chattels, vehicles
26 or equipment or other movable property;

27 (6) "highway and heavy construction general con-
28 tractor" means a construction contractor engaged in the
29 construction, by contract, of any type of fixed works for

1 public or private agencies, which includes any work related
2 to the construction of streets, roads, highways, bridges,
3 towers, tunnels, airports and runways, irrigation, drainage,
4 and flood control works, dams, water power installations,
5 sewerage systems, pipelines, inland waterways, harbors, rail-
6 roads and any other similar types of construction whether
7 public works or private developments and who although
8 specializing in the construction of one or more of the works
9 listed above, has a general knowledge of the construction of
10 all works;

11 (7) "plumbing and heating contractor" means a
12 construction contractor who performs work of a specialized
13 nature in the installation, repair and maintenance of a plumb-
14 ing, heating, and piping, air conditioning and duct systems
15 of all kinds in and connected with buildings and structures
16 of all types and outside pressure piping systems;

17 (8) "residential builder" means a construction
18 contractor whose specialty is the construction of residential
19 buildings and homes for occupancy as family dwellings and who
20 may operate on a contract basis, but may also construct homes
21 as a speculative business, and who does not construct or
22 repair residential buildings for more than four-family
23 occupancy;

24 (9) "specialty subcontractor" means a construction
25 contractor who performs a specific type of work requiring
26 special skill and the use of specialized craftsmen on con-
27 struction projects and on renovation and remodelling work
28 for both contractors and owners.

29 Sec. 08.18.340. SHORT TITLE. This chapter may be cited

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as the Construction Contractor's Licensing Act.

* Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.